

H.B. 3075 (Haywood) Relating to definition, sale, and purchase of certain fish. (31-0) (31-0)

H.B. 3171 (Truan) Relating to the exemption of certain chemical dependency programs from licensure requirements. (31-0) (31-0)

**CONCLUSION OF SESSION FOR
LOCAL AND UNCONTESTED BILLS CALENDAR**

The Presiding Officer announced that the session for the consideration of the Local and Uncontested Bills Calendar was concluded.

ADJOURNMENT

On motion of Senator Truan, the Senate at 8:05 a.m. adjourned until 10:00 a.m. today.

APPENDIX

REPORTS OF STANDING COMMITTEES

The following committee reports were received by the Secretary of the Senate:

May 17, 1995

EDUCATION — **H.B. 2187, H.B. 1338, H.B. 114, C.S.H.B. 1697, C.S.H.B. 2313, C.S.H.B. 2309, H.B. 2640**

FINANCE — **H.B. 2661, C.S.H.B. 1013, H.B. 2625 (Amended), H.B. 2940, H.B. 2613, H.B. 1205, H.B. 2022, H.B. 1882**

INTERNATIONAL RELATIONS, TRADE, AND TECHNOLOGY — **H.B. 496, C.S.S.C.R. 154, C.S.S.C.R. 155, C.S.H.B. 1001**

SEVENTY-FOURTH DAY

(Thursday, May 18, 1995)

The Senate met at 10:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Ellis, Gallegos, Galloway, Harris, Haywood, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Rosson, Shapiro, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

A quorum was announced present.

The Reverend Dr. David M. Evans, Pastor, Shepherd of the Hills Presbyterian Church, Austin, offered the invocation as follows:

Strong and gracious God, You have blessed us with a beautiful state, a land that we all passionately love. From the North Texas black gumbo earth of my birth, to the deep and mysterious Piney Woods of my youth, and now in the incredible spectacle of a Hill Country sunset, You have constantly reminded me of the wonders of Your creation.

Now You have chosen this Senate to be faithful stewards of this trust on my behalf and on behalf of all citizens. So as we begin another day of deliberations we dare to turn to You in the hope that we might be reminded that our lives and this land are not our own, but belong to You.

Guide us who govern in the ways of righteousness and peace, that loving and serving You all the days of our lives, we may be given the wisdom to seek Your will, to know Your will, and to do Your will.

When anger or violence or narrow self-interest threaten to derail our efforts for the public good, put us back on track. When times are prosperous, let our hearts be thankful. And, in troubled times, do not let our trust in You fail. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE

House Chamber
May 18, 1995

Mr. President: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 10, Relating to development of a health care delivery system under the state Medicaid program that results in cost savings to the state. (As substituted and amended)

S.B. 45, Relating to the punishment and eligibility for parole of certain defendants charged with sexual offenses. (As amended)

S.B. 600, Relating to the development of certain standards and complaint system guidelines for managed care organizations covering Medicaid clients. (As substituted)

S.B. 601, Relating to certain educational programs and support services under a managed care Medicaid program. (As substituted)

S.B. 602, Relating to the development and implementation of a computer database to reduce fraud and abuse in the Medicaid program. (As substituted)

S.B. 604, Relating to a pilot program for the establishment of medical savings accounts to assist Medicaid recipients.

S.B. 605, Relating to the duty of the Texas Department of Mental Health and Mental Retardation to evaluate and revise its sliding fee schedules.

S.B. 882, Relating to the placement of specific information logo signs and major shopping area guide signs on certain public highways.

S.B. 905, Relating to royalty rates applicable to certain oil and gas properties on public lands. (As amended)

S.B. 1063, Relating to the regulation of package stores. (As amended)

S.B. 1150, Relating to continuing education of insurance adjusters by reciprocity.

S.J.R. 36, Proposing a constitutional amendment to authorize the legislature to exempt from ad valorem taxation certain property of certain organizations chartered by the Congress of the Republic of Texas.

H.C.R. 212, Instructing the enrolling clerk of the House to make technical corrections in **H.B. 2015**.

H.B. 272, Relating to the authority of a municipality or county to regulate a sexually oriented business.

H.B. 1051, Relating to the regulation of the location of a sexually oriented business selling alcoholic beverages.

H.B. 1342, Relating to regulation of a person that exhibits nudity and that allows the possession or consumption of alcoholic beverages on the premises; providing criminal penalties.

H.B. 1711, Relating to the local regulation of a sexually oriented business and the sale, possession, and consumption of alcoholic beverages on the premises of a sexually oriented business; providing a penalty.

Respectfully,

Cynthia Gerhardt, Chief Clerk
House of Representatives

HOUSE BILLS AND RESOLUTION ON FIRST READING

The following bills and resolution received from the House were read first time and referred to the committees indicated:

H.J.R. 20 to Committee on Finance.

H.B. 142 to Committee on State Affairs.

H.B. 664 to Committee on Intergovernmental Relations.

H.B. 1300 to Committee on Intergovernmental Relations.

H.B. 2006 to Committee on International Relations, Trade, and Technology.

H.B. 2080 to Committee on State Affairs.

H.B. 2180 to Committee on State Affairs.
H.B. 2253 to Committee on Health and Human Services.
H.B. 2358 to Committee on Economic Development.
H.B. 2429 to Committee on State Affairs.
H.B. 2448 to Committee on Finance.
H.B. 2457 to Committee on State Affairs.
H.B. 2477 to Committee on Natural Resources.
H.B. 2491 to Committee on Natural Resources.
H.B. 2509 to Committee on Intergovernmental Relations.
H.B. 2543 to Committee on State Affairs.
H.B. 2563 to Committee on Economic Development.
H.B. 2592 to Committee on Criminal Justice.
H.B. 2600 to Committee on Finance.
H.B. 2618 to Committee on Natural Resources.
H.B. 2709 to Committee on Jurisprudence.
H.B. 2710 to Committee on Economic Development.
H.B. 2745 to Committee on Economic Development.
H.B. 2775 to Committee on Intergovernmental Relations.
H.B. 2796 to Committee on Criminal Justice.
H.B. 2818 to Committee on Jurisprudence.
H.B. 2850 to Committee on Health and Human Services.
H.B. 2856 to Committee on Natural Resources.
H.B. 2858 to Committee on Economic Development.
H.B. 2859 to Committee on Health and Human Services.
H.B. 2887 to Committee on Economic Development.
H.B. 2891 to Committee on Health and Human Services.
H.B. 2936 to Committee on Economic Development.
H.B. 2941 to Committee on Finance.
H.B. 2967 to Committee on State Affairs.
H.B. 2975 to Committee on Jurisprudence.
H.B. 3008 to Committee on Economic Development.
H.B. 3017 to Committee on Criminal Justice.
H.B. 3040 to Committee on Intergovernmental Relations.
H.B. 3046 to Committee on Natural Resources.
H.B. 3086 to Committee on State Affairs.
H.B. 3102 to Committee on State Affairs.
H.B. 3106 to Committee on State Affairs.
H.B. 3118 to Committee on Health and Human Services.
H.B. 3119 to Committee on Finance.
H.B. 3143 to Committee on Intergovernmental Relations.
H.B. 3162 to Committee on Economic Development.
H.B. 3169 to Committee on Jurisprudence.
H.B. 3200 to Committee on Economic Development.
H.B. 3208 to Committee on State Affairs.
H.B. 3231 to Committee on Natural Resources.
H.B. 3234 to Committee on Natural Resources.

BILLS AND RESOLUTIONS SIGNED

The President announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

S.C.R. 55	S.B. 21	S.B. 375	S.B. 1067
S.C.R. 56	S.B. 59	S.B. 391	S.B. 1146
S.C.R. 57	S.B. 60	S.B. 393	S.B. 1223
S.C.R. 60	S.B. 81	S.B. 482	S.B. 1282
S.C.R. 95	S.B. 146	S.B. 524	S.B. 1504
S.B. 264	S.B. 187	S.B. 542	S.B. 1530
S.B. 271	S.B. 223	S.B. 686	S.B. 831
S.B. 286	S.B. 237	S.B. 706	S.B. 916
S.B. 361	S.B. 248	S.B. 768	S.B. 938
S.B. 372	S.B. 251	S.B. 774	S.B. 980
S.B. 258	S.B. 988		
S.B. 793	(Signed subject to Art. III, Sec. 49a of the Constitution)		

SENATE RESOLUTION 1074

Senator Armbrister offered the following resolution:

WHEREAS, The Senate of the State of Texas is proud to commend the First American League, Southwest Texas State University, the City of San Marcos, Hays County, the Texas Department of Agriculture, and Boy and Girl Scouts from Texas and Oklahoma on the momentous occasion of the Sacred Springs Pow-Wow and Western Swing Festival; and

WHEREAS, The significance of the event is the celebration of the "Return of the Native American," beginning with a public welcoming ceremony being held in San Marcos at Southwest Texas State University near the ancient Sacred Springs at Aquarena Park; and

WHEREAS, In 1988, the State of Texas officially welcomed back to the state those Native American tribes who had lived in Texas prior to their banishment in the 1880s; Governor Bill Clements, Lieutenant Governor Bill Hobby, and Speaker of the House Gib Lewis formally welcomed the tribes on the Capitol grounds in Austin, and they sealed their agreement by smoking a peace pipe which had not been used since the Treaty of Medicine Lodge in 1867; and

WHEREAS, For three days beginning on May 19, 1995, Texas will celebrate the "Return of the Native American" with a special ceremony that will officially welcome Native American tribes, including the four major nations originally from Texas, the Kiowa Nation, the Comanche Nation, the Apache Tribe of Oklahoma, and the Wichita Tribe, as well as all other American Indians residing in Texas; and

WHEREAS, This historic greeting by state, university, county, and city officials of a distinguished group of American Indian leaders and their people will kick off a Texas-sized three-day weekend entitled the Sacred Springs Pow-Wow and Western Swing Festival; and

WHEREAS, This gala weekend hosted by Southwest Texas State University, the City of San Marcos, Hays County, and the State of Texas will include a Pow-Wow, concert, Western Swing dance, special exhibitions

of history and culture, Native American arts and crafts, plus trick ropers, cowboy poets, plays at the courthouse, and many other entertaining events; and

WHEREAS, The First American League, a nonprofit Native American Organization, will sponsor the festival with production by Texas World Records Production Company; the First American League's major areas of interest are young people, education, and cultural preservation and revival; the League is working with Southwest Texas State University to establish scholarships for deserving Native Americans and other long-term projects for the study and preservation of native cultures indigenous to this region; and

WHEREAS, All scouting organizations in Texas and Oklahoma will be invited to attend; there will be certain events and exhibitions designed to enable interested scouts to earn credit toward their Indian Lore Merit Badges; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 74th Legislature, hereby welcome Native American tribes and the four major nations, the Kiowa Nation, the Comanche Nation, the Apache Tribe of Oklahoma, and the Wichita Tribe, as well as other Native Americans residing in Texas, to the Sacred Springs Pow-Wow and Western Swing Festival; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the participants and sponsors as an expression of the highest esteem of the Texas Senate.

ARMBRISTER
BARRIENTOS
LUCIO

The resolution was read.

On motion of Senator Truan and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Armbrister and by unanimous consent, the resolution was adopted by a rising vote of the Senate.

GUESTS PRESENTED

Senator Armbrister, joined by Senators Barrientos and Lucio, was recognized and introduced to the Senate: Lucky Tomblin, First American League Board Member; Dr. Jerry Supple, President, Southwest Texas State University; Bill Cunningham, Southwest Texas State University Board of Regents Member; Elizabeth Nash, Southwest Texas State University Board of Regents Member; Judge Eddy Etheredge, Hays County Judge; R. C. Ahtone, Chair, First American League; Lindi Topfi, Keeper of the Tee-Pee; Billy Pewo, representing Comanche Nation of Oklahoma; and Billy Evans Horse, Chair, Kiowa Nation of Oklahoma.

The Senate welcomed its distinguished guests.

(Senator Leedom in Chair)

CAPITOL PHYSICIAN

The Presiding Officer recognized Senator Haywood, who presented Dr. J. J. Westernberg of Childress as the "Doctor for the Day."

Dr. Westernberg, participating in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians, was made welcome by the Senate.

SENATE BILL 1198 WITH HOUSE AMENDMENTS

Senator Ellis called **S.B. 1198** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Floor Amendment No. 1

Amend **S.B. 1198** (House committee report) on page 1 by striking line 23 and on page 2 by striking lines 1-2 and substituting the following: Subordinate only to;

(1) tax liens; and

(2) all [~~previously~~] recorded bona fide mortgage liens attached to the real property before September 1, 1995, and before the date on [to] which the municipality's lien attaches.

Amendment No. 1 on Third Reading

Amend **S.B. 1198** on third reading by striking second reading Amendment No. 1.

The amendments were read.

On motion of Senator Ellis and by unanimous consent, the Senate concurred in the House amendments to **S.B. 1198** by a viva voce vote.

(President in Chair)

CONCLUSION OF MORNING CALL

The President at 10:34 a.m. announced the conclusion of morning call.

HOUSE CONCURRENT RESOLUTION 212

The President laid before the Senate the following resolution:

H.C.R. 212, Instructing the enrolling clerk of the House to make technical corrections in **H.B. 2015**.

PATTERSON

The resolution was read.

On motion of Senator Patterson and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

(Senator Truan in Chair)

HOUSE JOINT RESOLUTION 73 ON SECOND READING

On motion of Senator Moncrief and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.J.R. 73, Proposing a constitutional amendment reducing the amount of general obligation bonds authorized for the issuance for undertakings related to a superconducting super collider research facility.

The resolution was read second time and was passed to third reading by a viva voce vote.

HOUSE JOINT RESOLUTION 73 ON THIRD READING

Senator Moncrief moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.J.R. 73** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The resolution was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 1320 ON SECOND READING

On motion of Senator Moncrief and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1320, Relating to unissued general obligation and revenue bonds of the state.

The bill was read second time and was passed to third reading by a viva voce vote.

(President in Chair)

HOUSE BILL 1320 ON THIRD READING

Senator Moncrief moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1320** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

BILLS AND RESOLUTIONS SIGNED

The President announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

H.B. 176	H.B. 1408
H.B. 366	H.B. 2128
H.B. 673	H.B. 2376
H.B. 674	H.B. 2505
H.B. 1136	H.C.R. 204
H.B. 1345	H.J.R. 31
H.B. 1399	

HOUSE CONCURRENT RESOLUTION 145

The President laid before the Senate the following resolution:

H.C.R. 145, Establishing a program whereby loans are made to state agencies, local governments, counties, or special districts to finance alternative fuel projects.

RATLIFF

The resolution was read.

On motion of Senator Ratliff and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

GUESTS PRESENTED

Senator Ratliff was recognized and introduced to the Senate a delegation from the Emergency Medical Services of Paris, Texas, and their mascot, Ready Freddy the Bear.

The Senate welcomed its guests.

(Senator Truan in Chair)

COMMITTEE SUBSTITUTE**HOUSE BILL 546 ON SECOND READING**

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 546, Relating to the exclusion of unserved property from certain water conservation and reclamation districts.

The bill was read second time and was passed to third reading by a viva voce vote.

(President in Chair)

COMMITTEE SUBSTITUTE**HOUSE BILL 546 ON THIRD READING**

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 546** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 2387 ON SECOND READING

On motion of Senator Ratliff and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2387, Relating to the regulation of retail water or sewer service utilities.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 2387 ON THIRD READING

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2387** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 2726 ON SECOND READING

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 2726, Relating to tax-exempt private activity bonds and housing finance corporations.

The bill was read second time and was passed to third reading by a viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 2726 ON THIRD READING

Senator Montford moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 2726** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE CONCURRENT RESOLUTION 160

Senator Henderson offered the following resolution:

WHEREAS, Though all Texans have been deeply affected by the devastating bombing of the A. P. Murrah Federal Building in Oklahoma City on April 19, 1995, the students of Klein Forest High School in Houston have chosen to channel their sorrow in a positive way to help those whose lives have been forever altered by this terrible tragedy; and

WHEREAS, To this end, these outstanding young people began making and selling ribbons to be worn as a tribute to those Americans who lost their lives or their loved ones in the disaster; four colors are being used in each ribbon—blue for the victims of the bombing, yellow for those still missing, purple for the slain children, and white for the loss of innocence that has occurred in the wake of this senseless crime; and

WHEREAS, Proceeds from the sale of the ribbons are being used to establish a scholarship fund for children who have been directly affected by the bombing, and the students have garnered such interest in their

project that it is rapidly becoming a community-wide effort as a result of the tremendous dedication they have shown; and

WHEREAS, Since the idea first developed in Susan Nyman's advanced placement U.S. history class, these exceptional young men and women have worked tirelessly afternoons, weekends, and evenings, placing phone calls, producing ribbons, soliciting donations of materials, and initiating a letter-writing campaign to offer sympathy and solace to the schoolchildren of Oklahoma City; one month after the bombing, the students also are sponsoring a Day of Hope and Healing at their school on May 19, 1995, in an effort to raise needed funds and heighten public awareness of this worthy community project; and

WHEREAS, Though many say that with this horrific act of domestic terrorism America has lost its innocence, Texans from across the state cannot help but take comfort in the extraordinary efforts of these young people, for the future of this state and nation lies in their hands, and they have reacted to this tragedy with the utmost compassion, generosity, and commitment; now, therefore, be it

RESOLVED, That the 74th Legislature of the State of Texas hereby commend the students of Klein Forest High School for their remarkable efforts in behalf of the victims and survivors of the Oklahoma City bombing; and, be it further

RESOLVED, That May 19, 1995, be recognized as a "Day of Hope and Healing in Texas" and that all Texans be encouraged to take a moment on this day to decide what they can do to assist the citizens of Oklahoma City and to help ensure a brighter, safer future for all the citizens of this land; and, be it further

RESOLVED, That an official copy of this resolution be prepared for prominent display at Klein Forest High School as an expression of highest regard by the Legislature of the State of Texas.

The resolution was read.

On motion of Senator Truan and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Henderson and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

(Senator Truan in Chair)

HOUSE BILL 1111 ON SECOND READING

On motion of Senator Rosson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1111, Relating to the provision of protective services to persons who are elderly or disabled.

The bill was read second time.

Senator Rosson offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **H.B. 1111** by adding a new SECTION, appropriately numbered, to read as follows and renumbering subsequent sections accordingly:

SECTION ____ . Section 48.040, Human Resources Code, is amended to read as follows:

Sec. 48.040. REPRESENTATION. (a) Except as provided by Subsection (b), the [The] prosecuting attorney representing the state in criminal cases in the county court shall represent the department in any proceeding [brought by the department] under this chapter unless the representation would be a conflict of interest.

(b) In a county having a population of more than 2.8 million, the prosecuting attorney representing the state in civil cases in the county court shall represent the department in any proceeding under this chapter unless the representation would be a conflict of interest.

The committee amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1111 ON THIRD READING

Senator Rosson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1111** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 2987 ON SECOND READING

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2987, Relating to the authority of the supreme court to adopt rules relating to the contractual relationship between an attorney and client.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 2987 ON THIRD READING

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2987** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Ratliff.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

(President in Chair)

**COMMITTEE SUBSTITUTE
HOUSE BILL 418 ON SECOND READING**

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 418, Relating to protective orders for family violence; providing penalties.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 418 ON THIRD READING**

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 418** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 1422 ON SECOND READING

On motion of Senator Leedom and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1422, Relating to certain fees charged by local recording agents and insurers.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1422 ON THIRD READING

Senator Leedom moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1422** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Moncrief.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

GUEST PRESENTED

The President introduced to the Senate Representative Susan Combs of Austin.

The Senate welcomed Representative Combs.

(Senator Armbrister in Chair)

HOUSE BILL 3226 ON SECOND READING

On motion of Senator Patterson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 3226, Relating to protection of coastal resources.

The bill was read second time.

(President in Chair)

Senator Truan offered the following amendment to the bill:

Floor Amendment No. 1

Amend **H.B. 3226** as follows:

- (1) On page 4, line 26, strike "a" and substitute "the".
- (2) On page 4, line 26, between "compilation" and "of state", insert "which is contained in 31 T.A.C. Chapter 501 as that chapter existed on the effective date of this section.".
- (3) On page 5, lines 3 and 4, strike "as described by Sections 33.2051 and 33.2053.".
- (4) On page 5, line 6, between "areas" and the semicolon, insert "which list must comprise each agency or subdivision action described by Sections 33.2051 and 33.2053.".
- (5) On page 5, line 7, strike "a" and substitute "the".
- (6) On page 5, line 7, between "list" and "of each federal", insert "which is contained in 31 T.A.C. Chapter 506 as that chapter existed on the effective date of this section.".
- (7) On page 32, line 24, between "to" and "Chapter", insert "Subchapter F,".

The amendment was read.

On motion of Senator Patterson, Floor Amendment No. 1 was tabled by the following vote: Yeas 19, Nays 11.

Yeas: Armbrister, Bivins, Brown, Cain, Galloway, Harris, Haywood, Henderson, Leedom, Lucio, Montford, Nelson, Nixon, Patterson, Ratliff, Shapiro, Sibley, Sims, Wentworth.

Nays: Barrientos, Ellis, Gallegos, Luna, Madla, Moncrief, Rosson, Truan, West, Whitmire, Zaffirini.

Absent: Turner.

Senator Truan offered the following amendment to the bill:

Floor Amendment No. 2

Amend **H.B. 3226** as follows:

- (1) On page 13, line 3, strike "The" and substitute "For appointees nominated after the effective date of this section, the".
- (2) Strike Section 5 and substitute the following:

SECTION 5. Any nomination of an appointee to the Coastal Coordination made before the 74th Regular Session convened and that is pending before the Senate at the time of Senate consideration of this Act shall be deemed to have reported, considered, and the nominee confirmed if a majority of the members of the Senate present vote in the affirmative on this Act. Any such nominee shall serve a term to expire February 1, 1996. As soon as possible on or after the effective date of this Act, the governor shall appoint the business and agriculture representatives to the Coastal Coordination Council.

The amendment was read.

On motion of Senator Patterson, Floor Amendment No. 2 was tabled by the following vote: Yeas 20, Nays 10.

Yeas: Armbrister, Bivins, Brown, Cain, Galloway, Harris, Haywood, Henderson, Leedom, Lucio, Madla, Moncrief, Nelson, Nixon, Patterson, Ratliff, Shapiro, Sibley, Sims, Wentworth.

Nays: Barrientos, Ellis, Gallegos, Luna, Montford, Rosson, Truan, West, Whitmire, Zaffirini.

Absent: Turner.

The bill was passed to third reading by the following vote: Yeas 25, Nays 6.

Yeas: Armbrister, Bivins, Brown, Cain, Ellis, Galloway, Harris, Haywood, Henderson, Leedom, Lucio, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Shapiro, Sibley, Sims, Truan, Turner, Wentworth, Zaffirini.

Nays: Barrientos, Gallegos, Luna, Rosson, West, Whitmire.

MOTION TO PLACE HOUSE BILL 3226 ON THIRD READING

Senator Patterson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 3226 be placed on its third reading and final passage.

The motion was lost by the following vote: Yeas 24, Nays 7. (Not receiving four-fifths vote of Members present)

Yeas: Armbrister, Bivins, Brown, Cain, Ellis, Galloway, Harris, Haywood, Henderson, Leedom, Lucio, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Shapiro, Sibley, Sims, Turner, Wentworth, Zaffirini.

Nays: Barrientos, Gallegos, Luna, Rosson, Truan, West, Whitmire.

(Senator Brown in Chair)

HOUSE BILL 1551 ON SECOND READING

On motion of Senator Moncrief and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1551, Relating to judicial training in family violence, sexual assault, and child abuse issues.

The bill was read second time.

Senator Moncrief offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **H.B. 1551** by striking SECTION 4 of the bill (House engrossed version, page 2, lines 24-27 and page 3, lines 1-7) and substituting the following:

SECTION 4. (a) This Act takes effect August 31, 1995. Each judge who is in office on August 31, 1995, must complete the judicial training required by Section 22.110, Government Code, as added by this Act, notwithstanding the requirement of that section that it be completed within the first term of office. The training must be completed before the judge who is in office on August 31, 1995, begins another term of office as a judge.

(b) A judge who takes office on or after September 1, 1995, and who has not otherwise satisfied the requirements of Section 22.110(b), Government Code, as added by this Act, must complete the judicial training required by that section within the judge's first term of office that begins on or after that date.

The committee amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1551 ON THIRD READING

Senator Moncrief moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1551** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 1785 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1785, Relating to certain Parks and Wildlife Department admissions fees, license requirements, and exemptions.

The bill was read second time.

Senator Armbrister offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **H.B. 1785** as follows:

Substitute the following language for Section 1(a)(1), Section 1(d) and Section 3(d):

Sec. 1(a)(1) a resident of this state who is 65 years old or over who has resided in the state for six consecutive months preceding the date of application for a parklands passport, a member of the United States armed forces on active duty who is 65 years old or over, or any other individual in a category that the commission by rule designates as a resident of this state [person] who is 65 years old or over; and

Sec. 1(d) The department may discount or waive a park entrance fee for a resident of this state issued an initial state parklands passport after August 31, 1995. When a fee is charged by the department for entrance of a vehicle into a state park, the vehicle of the holder of an initial state parklands passport may enter any state park on payment of a lower vehicle entrance fee. The department may waive vehicle entrance fees for any state park for the holder of an initial state parklands passport.

Sec. 3(d) [(e)] The nonresident ~~[or alien]~~ fishing license fee is \$15 or an amount set by the commission, whichever amount is more.

The committee amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1785 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1785** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 752 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 752, Relating to eligibility for certain law enforcement training programs and examinations.

The bill was read second time.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 1

Amend **H.B. 752** by adding a new SECTION 3 to read as follows and renumber the remaining sections accordingly:

SECTION 3. Amend Section 415.052, Government Code, by adding a new subsection (d) to read as follows:

(d) Notwithstanding Subsection (c), if a permanent license was issued before January, 1981, to an honorably retired commissioned officer of the Department of Public Safety who is a special ranger under section 411.023, or a retired state employee, and the license was current on January 1, 1995, the holder of the license shall have the same rights and privileges

as any other peace officer of this state and the license shall be considered active unless revoked, suspended or probated by the commission for a violation of a provision of this chapter other than Section 415.034, which shall not apply to the holder of such license.

The amendment was read and was adopted by a viva voce vote.

Senator Turner offered the following amendment to the bill:

Floor Amendment No. 2

Amend H.B. 752 as follows:

(1) Add the following new sections to the bill, to be numbered appropriately, and renumber the remaining sections accordingly:

SECTION ____ . Section 415.009(c), Government Code, is amended to read as follows:

(c) Except as provided by Sections 415.058 and 415.0581, the [The] commission is subject to the open meetings law, Chapter 551, and the administrative procedure law, Chapter 2001 [the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes)].

SECTION ____ . Section 415.058, Government Code, is amended to read as follows:

Sec. 415.058. FELONY CONVICTION OR PLACEMENT ON COMMUNITY SUPERVISION. (a) A person who has been convicted of a felony is disqualified to be an officer, public security officer, or county jailer. The commission may not license and a law enforcement agency may not appoint or employ [such] a person convicted of a felony. If a person licensed under this chapter is convicted of a felony, the commission shall [and shall on conviction of a felony] immediately revoke the person's license [of a person previously licensed].

(b) If a person licensed under this chapter is charged with the commission of a felony and is placed on community supervision, the commission shall immediately suspend the person's license regardless of whether the court defers further proceedings without entering an adjudication of guilt.

(c) ~~(b)~~ For the purposes of this section, a person is convicted of a felony if a court of competent jurisdiction enters an adjudication of guilt against the person on a felony offense under the laws of this or another state or the United States, regardless of whether:

(1) the sentence is subsequently probated and the person is discharged from community supervision [probation];

(2) the accusation, complaint, information, or indictment against the person is dismissed and the person is released from all penalties and disabilities resulting from the offense; or

(3) the person is pardoned for the offense, unless the pardon is granted expressly for subsequent proof of innocence.

(d) The commission, on receiving a certified copy of a court's judgment under Article 42.011, Code of Criminal Procedure, shall note on

the person's licensing records the conviction or community supervision indicated by the judgment.

SECTION _____. Section 415.060(b), Government Code, is amended to read as follows:

(b) The commission shall revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a licensee for a violation of this chapter or a rule of the commission, and the commission may by rule provide for any other necessary enforcement procedures. Except as provided by Sections 415.058 and 415.0581, a [A] person whose license the commission proposes to suspend or revoke is entitled to a hearing before the commission. When a person whose license is suspended under Section 415.058(b) is released from community supervision, the license may be reinstated under commission rules.

SECTION _____. Section 415.061(a), Government Code, is amended to read as follows:

(a) A person dissatisfied with an action of the commission may appeal the action under the administrative procedure law, Chapter 2001 ~~[by filing a petition in a district court of Travis County not later than the 30th day after the date of the action]~~. The court shall set the matter for hearing not earlier than 10 days after written notice of the appeal is given to the commission and the commission's attorney.

SECTION _____. Section 415.065, Government Code, is amended to read as follows:

Sec. 415.065. VIOLATION. (a) A person commits an offense if the person:

(1) knowingly appoints or retains an individual as an officer or county jailer in violation of Section 415.051 or 44415.057; or

(2) makes the appointment knowing that ~~[when]~~ the appointee does not satisfy the requirements of Section 415.036.

(b) A person commits an offense if the person knowingly appoints or retains an individual as an officer, or county jailer in violation of Section 415.058 or 415.0581.

(c) [(b)] An offense under Subsection (a) [this section] is a misdemeanor punishable by a fine of not less than \$100 nor more than \$1,000.

(d) An offense under Subsection (b) is a state jail felony.

SECTION _____. Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.011 to read as follows:

Art. 42.011. JUDGMENT AFFECTING AN OFFICER OR JAILER. If a person licensed under Chapter 415, Government Code, is charged with the commission of a felony and a court that knows the person is licensed under that chapter convicts the person or places the person on community supervision, the clerk of the court shall send the Commission on Law Enforcement Officer Standards and Education, by mail or electronically, the license number of the person and a certified copy of the court's judgment reflecting that the person has been convicted or placed on community supervision.

(2) Insert new SECTIONS 4, 5 and 6, to read as follows, and renumber subsequent sections accordingly.

SECTION 4. The changes in law made by Sections 415.058 and 415.060(b), Government Code, as amended by this Act, apply only to a license issued by the Commission on Law Enforcement Officer Standards and Education that is revoked or suspended or a license denied on or after the effective date of this Act. A license revoked, suspended, or denied before that date is governed by the law in effect when the license was revoked, suspended, or denied, and the former law is continued in effect for that purpose.

SECTION 5. The changes in law made by Sections 415.058 and 415.060(b), Government Code, as amended by this Act, apply only to the placement of a person on community supervision for an offense the person committed on or after September 1, 1995. For purposes of this section, an offense is committed before September 1, 1995, if any element of the offense occurs before that date. The placement of a person on community supervision for an offense the person committed before September 1, 1995, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 6. The changes in law made by Section 415.065, Government Code, as amended by this Act, apply only to a person who appoints or retains an individual as an officer or county jailer in violation of Section 415.058, Government Code, as amended by this Act, or Section 415.0581, Government Code, on or after September 1, 1995. Appointment or retention of an officer or county jailer before September 1, 1995, is governed by the law in effect on the day the appointment or retention occurred, and the former law is continued in effect for that purpose.

The amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 752 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 752** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

(Senator Armbrister in Chair)

COMMITTEE SUBSTITUTE SENATE CONCURRENT RESOLUTION 154 ON SECOND READING

On motion of Senator Truan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading:

C.S.S.C.R. 154, Directing the Texas Natural Resource Conservation Commission, the Texas Water Development Board, the Texas Department

of Health, the Texas Department of Agriculture, the Rio Grande Compact Commission and the Texas Parks and Wildlife Department to establish a special task force on the management of the Rio Grande under the direction of the secretary of state or the designee of the secretary of state.

The resolution was read second time and was adopted by a viva voce vote.

MESSAGE FROM THE HOUSE

House Chamber
May 18, 1995

Mr. President: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 14, Relating to protecting private real property rights from certain actions of this state or a political subdivision of this state. (As substituted and amended)

S.B. 640, Relating to the imposition, collection, and enforcement of taxes; providing penalties. (As substituted and amended)

S.B. 641, Relating to administration and collection of certain insurance taxes.

S.B. 642, Relating to the appraisal of property for ad valorem taxation and the assessment and collection of ad valorem taxes. (As amended)

S.B. 643, Relating to the administration, imposition, collection, and enforcement of mixed beverage taxes. (As amended)

S.B. 644, Relating to administration and collection of the franchise tax. (As amended)

S.B. 750, Relating to the creation of a license management program for certain commercial fishing.

S.B. 1262, Relating to the management, development, accounting, and disposition of certain state property. (As amended)

H.C.R. 214, Commending the students of Klein Forest High School and designating May 19, 1995, as a Day of Hope and Healing in Texas.

Respectfully,

Cynthia Gerhardt, Chief Clerk
House of Representatives

COMMITTEE SUBSTITUTE SENATE CONCURRENT RESOLUTION 155 ON SECOND READING

On motion of Senator Truan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading:

C.S.S.C.R. 155, Urging the President of the United States to direct the secretary of state to employ the North American Commission for Environmental Cooperation to enter into diplomatic negotiations with the Republic of Mexico with the intent to reach an accord on the effective management of the water resources of the Rio Grande.

The resolution was read second time.

Senator Truan offered the following amendment to the resolution:

Floor Amendment No. 1

Amend **C.S.S.C.R. 155**, page 3, line 3, by deleting the word "Commission" and substituting the words "Environmental Board".

The amendment was read and was adopted by a viva voce vote.

The resolution as amended was adopted by a viva voce vote.

SENATE RESOLUTION ON FIRST READING

The following resolution was introduced, read first time, and referred to the committee indicated:

S.C.R. 161 by Nixon Natural Resources
Encouraging United States Congress to amend the Safe Drinking Water Act.

HOUSE BILLS ON FIRST READING

The following bills received from the House were read first time and referred to the committees indicated:

H.B. 2550 to Committee on Economic Development.

H.B. 3186 to Committee on Natural Resources.

H.B. 3187 to Committee on Natural Resources.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 9**

Senator Armbrister submitted the following Conference Committee Report:

Austin, Texas
May 18, 1995

Honorable Bob Bullock
President of the Senate

Honorable James E. "Pete" Laney
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 9** have met

and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

ARMBRISTER

LEEDOM

MADLA

MONTFORD

WENTWORTH

On the part of the Senate

GRAY

BLACK

JUNELL

MOWERY

TELFORD

On the part of the House

A BILL TO BE ENTITLED

AN ACT

relating to the functions and systems and programs administered by the Teacher Retirement System of Texas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 821.001(7) and (15), Government Code, are amended to read as follows:

(7) "Employer" means ~~[the state or]~~ any ~~[of its designated]~~ agents or agencies in the state responsible for public education, including the governing board of any school district created under the laws of this state, any county school board, the board of trustees, ~~[the State Board of Education, the Central Education Agency,]~~ the board of regents of any college or university, or any other legally constituted board or agency of any public school, but excluding the State Board of Education and the Central Education Agency.

(15) "School year" means:

(A) a 12-month period beginning approximately September 1 and ending approximately August 31 of the next calendar year; or

(B) for a member whose contract or oral or written work agreement begins after June 30 and continues after August 31 of the same calendar year, a period not to include more than 12 months beginning on the date the contract or agreement begins.

SECTION 2. Subchapter A, Chapter 821, Government Code, is amended by adding Section 821.007 to read as follows:

Sec. 821.007. CONTROL OF HOME OFFICE FACILITIES. The buildings comprising the home office of the retirement system are under the control and custodianship of the retirement system, but the retirement system shall:

(1) comply with space use regulations provided by Section 6.021, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes); the General Appropriations Act; or other state law; and

(2) lease to other persons at fair market value all significant unused space in the buildings.

SECTION 3. Subchapter A, Chapter 821, Government Code, is amended by adding Section 821.008 to read as follows:

Sec. 821.008. PURPOSE OF RETIREMENT SYSTEM. The purpose of the retirement system is to invest and protect funds of the retirement

system and to deliver the benefits provided by statute, not to advocate or influence legislative action or inaction or to advocate higher benefits.

SECTION 4. Section 822.003, Government Code, is amended to read as follows:

Sec. 822.003. TERMINATION OF MEMBERSHIP. (a) A person terminates membership in the retirement system by:

- (1) death;
- (2) retirement;
- (3) withdrawal of all of the person's contributions while the person is absent from service; or
- (4) not qualifying for service credit [absence from service] for [more than] five consecutive years [within a six-year period].

(b) Termination of membership under Subsection (a)(4) is effective on the first September 1 that occurs after the non-qualifying years. If a person, regardless of age, has five or more years of service credit, failure to qualify for additional service credit [absence from service] does not terminate membership in the retirement system unless all of the person's contributions are withdrawn.

(c) A person does not terminate membership under Subsection (a)(4) [is not absent from service] if the person:

- (1) is performing military service creditable in the retirement system; ~~[or]~~
- (2) is on leave of absence from employment in a public school; ~~or~~
- (3) is earning service credit in another retirement system covered by Chapter 803 or 805.

SECTION 5. Section 822.201, Government Code, is amended by adding Subsection (d) to read as follows:

(d) For a person who first becomes a member of the retirement system after August 31, 1996, the person's annual compensation for purposes of the retirement system may not exceed the limit imposed by Section 401(a)(17) of the Internal Revenue Code of 1986 (Title 26, United States Code), as adjusted by the commissioner of internal revenue for cost-of-living increases in accordance with that provision. This limit does not apply to a person who first became a member of the retirement system before September 1, 1996.

SECTION 6. Section 823.002, Government Code, is amended to read as follows:

Sec. 823.002. SERVICE CREDITABLE IN A YEAR. The board of trustees by rule shall determine how much service in any year is equivalent to one year of service credit, but in no case may all of a person's service in one school year be creditable as more than one year of service. Service that has been credited by the retirement system on annual statements for a period of five or more years may not be deleted or corrected because of an error in crediting unless the error concerns three or more years of service credit or was caused by fraud.

SECTION 7. Subchapter A, Chapter 823, Government Code, is amended by adding Sections 823.004 and 823.005 to read as follows:

Sec. 823.004. COMPUTATION OF AND PAYMENT FOR CREDIT. All credit for military service, out-of-state service, developmental leave,

service previously waived, and service transferred to the retirement system under Chapter 805 shall be computed on a September 1 through August 31 school year. Payments for service described by this section must be completed not later than the later of the member's retirement date or the last day of the month in which the member submits a retirement application.

Sec. 823.005. ACCEPTANCE OF ROLLOVERS AND TRANSFERS FROM OTHER PLANS. Subject to rules adopted by the board of trustees, the retirement system shall accept an eligible rollover distribution or a direct transfer of funds from another qualified plan in payment of all or a portion of any deposit a member is permitted to make with the system for credit for service. The rules adopted by the board shall condition the acceptance of a rollover or transfer from another plan on the receipt from the other plan of information necessary to enable the retirement system to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

SECTION 8. Section 823.302(b), Government Code, is amended to read as follows:

(b) A member eligible to establish military service credit is one who has at least five years of service credit in the retirement system for actual service in public schools, except that a member meeting this condition does not qualify for insurance coverage under the Texas Public School Employees Group Insurance Act (Article 3.50-4, Insurance Code) until the member has 10 or more years of membership service credit.

SECTION 9. Section 823.304, Government Code, is amended by adding Subsection (f) to read as follows:

(f) The board of trustees may adopt rules that modify the terms of this section for the purpose of compliance with the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.).

SECTION 10. Section 823.401, Government Code, is amended by amending Subsection (d) and adding Subsection (i) to read as follows:

(d) A member may establish credit under this section by depositing with the retirement system for each year of service claimed a contribution computed at the rate of:

(1) 12 percent of the rate of the member's annual compensation during the first year of service for which the member received membership credit in [as a member of] the retirement system that is both after the service for which credit is sought and after September 1, 1956; or

(2) 12 percent of the rate of the member's annual compensation during the most recent year of service for which the member received membership credit [as a member] that is after the service for which credit is sought, if the member has performed no service in Texas since September 1, 1956.

(i) In determining the amount of a contribution under Subsection (d) required of a member who did not work full time or worked fewer days or months than full-time employees in similar positions, the retirement system shall compute an annual rate of compensation from the member's reported compensation.

SECTION 11. Section 824.002, Government Code, is amended by amending Subsections (a) and (b) and adding Subsections (e) and (f) to read as follows:

(a) The effective date of a member's service retirement is the last day of the later of the following months:

(1) any month in a three-month period in which the third month is the month in which the member applies for retirement as provided by Section 824.201;

(2) the month in which the member satisfies age and service requirements for service retirement as provided by Section 824.202; or

(3) the month in which the member's employment in a position included in the coverage of the retirement system ends.

(b) The effective date of a member's disability retirement is the last day of the later of the following months:

(1) any month in a three-month period in which the third month is the month in which the member applies for retirement as provided by Section 824.301; or

(2) the month in which the member's employment in a position included in the coverage of the retirement system ends.

(c) Not later than the later of a member's retirement date or the last day of the month in which the member's application for retirement is submitted, a member applying for service retirement may reinstate withdrawn contributions; make deposits for service previously waived, military service, and equivalent membership service; and receive service credit as provided by this subtitle.

(f) An effective retirement date may not be changed after it is established except by revocation of retirement under Section 824.005 and retirement at a later date.

SECTION 12. Section 824.003, Government Code, is amended to read as follows:

Sec. 824.003. WHEN BENEFITS ARE PAYABLE. Except as otherwise provided by this chapter, an annuity provided by this chapter is ~~[not]~~ payable for the month in which the person who receives the annuity dies. Monthly annuity payments are generally due to be paid on the first working day of each month following the month for which the payment accrues.

SECTION 13. Section 824.005(a), Government Code, is amended to read as follows:

(a) A person who has retired under the retirement system may revoke that retirement by filing with the system a written revocation in a form prescribed by the system. For a revocation to be effective, the retirement system must receive the written revocation before the later of the due date for the first payment of the annuity or the date on which the retirement system makes the first payment. After the later of those dates, a retiree may not revoke the retirement. For purposes of this subtitle, the retirement system makes a payment by depositing a check in the mail or sending payment by electronic fund transfer [46th day after the original date of

~~retirement, and the person must return to the system an amount equal to the amount of benefits received under the original retirement. The period for revocation of a disability retirement under this subsection begins on the date the medical board certifies the disability if the date is later than the date of retirement].~~

SECTION 14. Subchapter A, Chapter 824, Government Code, is amended by adding Section 824.006 to read as follows:

Sec. 824.006. PAYMENT OF ANNUITY ON DEATH OF MEMBER OR RETIREE. (a) A monthly annuity payable to a retiree or beneficiary is payable to that person through the month in which the person dies. A continuation of an optional annuity or the payment of a death or survivor benefit annuity begins with payment for the month following the month in which the death occurs.

(b) The effective date of death of a member who dies before retirement is, for the purpose of a death or survivor benefit annuity, the last day of the month preceding the month in which the member dies. The first payment of the annuity becomes due at the end of the month in which the member's death occurs.

SECTION 15. Section 824.101(c), Government Code, is amended to read as follows:

(c) Only one person may be designated as beneficiary of an optional retirement annuity under Section 824.204(c)(1), ~~[or] (c)(2), or (c)(5)~~, and a designation of beneficiary under either of those options may not be made, changed, or revoked after the later of the date on which the retirement system makes the first annuity payment to the retiree or the date the first payment becomes due. For purposes of this section, the term "makes payment" includes the depositing in the mail of a payment warrant or the crediting of an account with payment through electronic funds transfer.

SECTION 16. Subchapter B, Chapter 824, Government Code, is amended by adding Section 824.1011 to read as follows:

Sec. 824.1011. DESIGNATION OF BENEFICIARY AFTER RETIREMENT. (a) A retiree who is receiving a standard service retirement annuity under Section 824.203 and who marries after the date of the person's retirement may replace the annuity by selecting an optional retirement annuity under Section 824.204(c)(1), (c)(2), or (c)(5) and designating the person's spouse as beneficiary before the first anniversary of the marriage in the same manner as an annuity selection and designation of beneficiary may be made before retirement.

(b) The selection of an optional annuity and designation of a beneficiary under this section do not take effect until the first payment of the annuity that becomes due two years after the date the selection and designation are filed with the retirement system.

(c) The retirement system shall recompute the annuity of a retiree who selects an optional annuity and designates a beneficiary under this section to reflect that change and shall adjust the annuity as appropriate for early retirement and postretirement increases provided after the date of the retiree's retirement. The retirement system shall by rule provide for the

adjustment of the monthly payments of the annuity under the option selected to an amount which is the actuarial equivalent of the annuity being paid immediately before the change in benefit option and beneficiary selection.

(d) If a retiree who selects an optional annuity and designates a beneficiary under this section dies before the change takes effect or if the designated beneficiary dies before the change takes effect, the selection of an optional annuity and designation of beneficiary have no effect.

SECTION 17. Section 824.103(a), Government Code, is amended to read as follows:

(a) Benefits payable on the death of a member or annuitant, except an optional retirement annuity under Section 824.204(c)(1), ~~[or] (c)(2), or (c)(5)~~, are payable, and rights to elect survivor benefits, if applicable, are available, to one of the classes of persons described in Subsection (b), if:

(1) the member or annuitant fails to designate a beneficiary before death;

(2) a designated beneficiary does not survive the member or annuitant; or

(3) a designated beneficiary, under Section 824.004, waives claims to benefits payable on the death of the member or annuitant.

SECTION 18. Section 824.104(a), Government Code, is amended to read as follows:

(a) If, before the first anniversary of the death of a member or annuitant, the retirement system does not receive a claim for payment of benefits from a designated beneficiary or a person entitled to benefits under Section 824.103, the retirement system may pay benefits, except an optional retirement annuity under Section 824.204(c)(1), ~~[or] (c)(2), or (c)(5)~~, under the order of precedence in Section 824.103(b), as if the person failing to claim benefits had predeceased the decedent.

SECTION 19. Section 824.201(b), Government Code, is amended to read as follows:

(b) At any time before the retirement system makes the first annuity payment or the first annuity payment becomes due ~~[effective date of retirement]~~, a member may, by filing written notice with the board of trustees, revoke the member's application for retirement or make, revoke, or change a selection of an optional service retirement annuity available as provided by Section 824.204.

SECTION 20. Sections 824.202(a), (d), and (f), Government Code, are amended to read as follows:

(a) A member is eligible to retire and receive a standard service retirement annuity if the member:

(1) is at least 65 years old and has at least five years of service credit in the retirement system; ~~[or]~~

(2) is at least 60 years old and has at least 20 years of service credit in the retirement system; or

(3) is at least 50 years old and has at least 30 years of service credit in the retirement system.

(d) If a member has at least 30 years of service credit in the retirement system, the member is eligible to retire regardless of age and receive a service retirement annuity consisting of a percentage of the standard service retirement annuity available under Subsection (a)(3) [(a)(2)], derived from the table in Subsection (c). The board of trustees shall extend the table in Subsection (c) to ages earlier than 50 [55] years by decreasing the percentages by two percent for each year of age under 50 [55] years.

(f) Except as provided by Chapter 803 or 805 [~~the proportionate retirement program in Subtitle A~~], a member is not eligible to receive service retirement benefits from the retirement system unless the member has at least five years of service credit in the retirement system for actual service in public schools.

SECTION 21. Section 824.203, Government Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) Except as provided by Subsections (c), [and] (d), and (e), the standard service retirement annuity is an amount computed on the basis of the member's average annual compensation for the three years of service, whether or not consecutive, in which the member received the highest annual compensation, times two percent for each year of service credit in the retirement system.

(e) The annual standard service retirement annuity for a person who immediately before retirement holds a position as a classroom teacher or full-time librarian, or the annual death benefit annuity based on the service of a member who at the time of death held a position as a classroom teacher or full-time librarian, may not be less than an amount computed on the basis of the minimum annual salary provided by the Education Code for a classroom teacher or full-time librarian, multiplied by two percent for each year of service credit in the retirement system.

SECTION 22. Subchapter C, Chapter 824, Government Code, is amended by adding Section 824.2031 to read as follows:

Sec. 824.2031. BENEFIT IMPROVEMENTS. (a) Each regular legislative session, the legislature shall determine whether the performance of the retirement system trust fund makes the fund capable of supporting improvements in the plan of benefits.

(b) A determination under this section shall be founded on the information in the most recent report of an investment performance audit conducted under Section 825.512 and the application of that information to:

(1) the present amortization period for liabilities of the retirement system;

(2) the rate of return on retirement system investments over and above the rate of inflation of the investment portfolio as a whole, of the portion of the investment portfolio entrusted to private investment entities, and of the portion of the investment portfolio entrusted to investment officers who are employees of the retirement system;

(3) economic projections of market conditions and future investment rates of return as reflected in the comptroller's most recent economic forecast and revenue estimate;

(4) the costs, including changes in the amortization period for liabilities of the retirement system, of providing cost-of-living or other increases in benefits to current annuitants; and

(5) an evaluation of the diversity of retirement system investments and whether the portfolio provides low-risk, long-term growth.

SECTION 23. Sections 824.204(c) and (e), Government Code, are amended to read as follows:

(c) An eligible member may select one of the following options, which provide that:

(1) after the retiree's death, the reduced annuity is payable to and throughout the life of the person nominated by the retiree's written designation filed prior to retirement;

(2) after the retiree's death, one-half of the reduced annuity is payable to and throughout the life of the person nominated by the retiree's written designation filed prior to retirement;

(3) if the retiree dies before 60 monthly annuity payments have been made, the remainder of the 60 payments are payable to the designated beneficiary; ~~[or]~~

(4) if the retiree dies before 120 monthly annuity payments have been made, the remainder of the 120 payments are payable to the designated beneficiary; or

(5) after the retiree's death, three-fourths of the reduced annuity is payable to and throughout the life of the person nominated by the retiree's written designation filed prior to retirement.

(e) The increase in the annuity under Subsection (d) [:

[(+)] begins with the payment due at the end of September, 1995, or the first monthly payment made to the retiree following the date of death of the person nominated, whichever is later, and is payable to the retiree for the remainder of the retiree's life; and

~~[(2) applies only to a member who retires after August 31, 1989].~~

SECTION 24. Sections 824.304(a) and (b), Government Code, are amended to read as follows:

(a) If a member has a total of less than 10 years of service credit in the retirement system on the date of disability retirement, the retirement system shall pay the person a disability retirement annuity of \$150 ~~[\$50]~~ a month for the shortest of the following periods:

(1) the duration of the disability;

(2) the number of months of creditable service the person has at retirement; or

(3) the duration of the person's life.

(b) If a member has a total of at least 10 years of service credit in the retirement system on the date of disability retirement, the retirement system shall pay the person for the duration of the disability a disability retirement annuity in an amount equal to the greater of:

(1) a standard service retirement annuity computed under Section 824.203 ~~[824.203(a)]~~; ~~[or]~~

(2) \$6.50 a month for each year of service credit on the date of retirement; or

(3) \$150 a month.

SECTION 25. Sections 824.308(a), (b), (c), and (d), Government Code, are amended to read as follows:

(a) Instead of an annuity payable under Section 824.304(b), a member retiring under that section may elect to receive an optional disability retirement annuity under this section. An election to receive an optional disability retirement annuity must be filed with the board of trustees not later than the later of the effective date of retirement or the date the member applies for retirement.

(b) An optional disability retirement annuity is an annuity payable throughout the disability of the disability retiree and is actuarially reduced from the annuity otherwise payable under Section 824.304(b) [~~Sections 824.304(b)(1) and (b)(2)~~] to its actuarial equivalent under the option selected under Subsection (c).

(c) An eligible member may select one of the following options:

(1) after the disability retiree's death, the reduced annuity is payable throughout the life of a person nominated by the retiree's written designation under Section 824.101 filed before retirement;

(2) after the disability retiree's death, one-half of the reduced annuity is payable throughout the life of the retiree's designated beneficiary;

(3) if the disability retiree dies before 60 monthly annuity payments have been made, the remainder of the 60 payments are payable to the designated beneficiary; ~~or~~

(4) if the disability retiree dies before 120 monthly annuity payments have been made, the remainder of the 120 payments are payable to the designated beneficiary; or

(5) after the disability retiree's death, three-fourths of the reduced annuity is payable throughout the life of the retiree's designated beneficiary.

(d) If the person nominated by the disability retiree's written designation under Section 824.101 filed before or at the time of retirement predeceases the disability retiree, the reduced annuity of a disability retiree who has elected an optional retirement annuity under Subsection (c)(1), (c)(2), or (c)(5) [~~or (2)~~] is increased to the standard retirement annuity that the disability retiree would otherwise be entitled to receive if the disability retiree had not selected an annuity option. The standard retirement annuity shall be adjusted as appropriate for postretirement increases in retirement benefits authorized by law after the date of retirement.

SECTION 26. Section 824.402(a), Government Code, is amended to read as follows:

(a) Except as provided by Section 824.401, the designated beneficiary of a member who dies during a school year in which the member has performed service is eligible to receive at the beneficiary's election the greatest of the following amounts:

(1) an amount equal to twice the member's annual compensation for the school year immediately preceding the school year in which the member dies, or \$80,000 [~~\$60,000~~], whichever is less;

(2) an amount equal to twice the member's rate of annual compensation for the school year in which the member dies, or \$80,000 [~~\$60,000~~], whichever is less;

(3) 60 monthly payments of a standard service retirement annuity, computed as provided by Section 824.203 [~~824.203(a)~~];

(4) an optional retirement annuity for the designated beneficiary's life in an amount computed as provided by Section 824.204(c)(1) as if the member had retired on the last day of the month immediately preceding the month in which the member dies; or

(5) an amount equal to the amount of accumulated contributions in the member's individual account in the member savings account.

SECTION 27. Sections 824.503(a) and (c), Government Code, are amended to read as follows:

(a) If a retiree dies while receiving a standard or reduced service retirement annuity as provided by Section 824.202 or an optional service retirement annuity as provided by Section 824.204(c)(1), ~~[or] (c)(2), or (c)(5)~~ and, in the case of a retiree receiving an optional service retirement annuity, if the retiree's designated beneficiary of the annuity has predeceased the retiree, the retirement system shall pay a lump-sum death benefit in an amount, if any, by which the amount of the deceased retiree's accumulated contributions at the time of retirement exceeds the amount of annuity payments made before the retiree's death.

(c) If a retiree's designated beneficiary dies while receiving an optional annuity under Section 824.204(c)(1), ~~[or] (c)(2), or (c)(5)~~, the retirement system shall pay a lump-sum death benefit in an amount, if any, by which the amount of the retiree's accumulated contributions at the time of retirement exceeds the amount of annuity payments made to the retiree and the designated beneficiary before the beneficiary's death.

SECTION 28. Section 824.505(a), Government Code, is amended to read as follows:

(a) Amounts payable by the retirement system to an annuitant that are not received by that annuitant or the annuitant's bank, as determined by the retirement system, before the annuitant's death may be paid to the person named to receive benefits in the event of the annuitant's death, in accordance with rules adopted by the board of trustees. The retirement system may send a final monthly payment of an annuity to a bank or another address previously indicated by the annuitant or beneficiary.

SECTION 29. Section 824.602(a), Government Code, is amended to read as follows:

(a) The retirement system may not, under Section 824.601, withhold a monthly benefit payment if the retiree is employed in a Texas public educational institution:

(1) as a substitute only with pay not more than the daily rate of substitute pay established by the employer and, if the retiree is a disability retiree, [if] the employment has not exceeded a total of [120 days in the school year or, for a disability retiree,] 90 days in the school year;

(2) in a position, other than as a substitute, on no more than a one-half time basis for the month;

- (3) in one or more positions on as much as a full-time basis, if:
- (A) the work occurs in a school year that begins after the retiree's effective date of retirement;
 - (B) the work occurs in no more than six months of the school year; and
 - (C) the retiree executes on a form and within any deadline prescribed by the retirement system a written election to have this exception apply for the school year in determining whether benefits are to be suspended for employment after retirement; or
- (4) in a position, other than as a substitute, on no more than a one-half time basis for no more than 90 days in the school year, if the retiree is a disability retiree.

SECTION 30. Section 825.002(b), Government Code, is amended to read as follows:

(b) The governor shall appoint three members of the board to hold office for staggered terms, with the term of one trustee expiring on August 31 of each odd-numbered year. ~~These [Two of those three]~~ members must be persons who have demonstrated financial expertise, who have worked in private business or industry, and who have broad investment experience, preferably in investment of pension funds. None of the members appointed under this subsection may be a member or annuitant of the retirement system.

SECTION 31. Section 825.003, Government Code, is amended to read as follows:

Sec. 825.003. TRUSTEES APPOINTED BY GOVERNOR FROM NOMINEES OF BOARD OF EDUCATION. The ~~governor [State Board of Education]~~ shall appoint two members of the board of trustees, subject to confirmation by two-thirds of the senate, from lists of nominees submitted by the State Board of Education. These members must be persons who have demonstrated financial expertise, have worked in private business or industry, and have broad investment experience, preferably in investment of pension funds.

SECTION 32. Sections 825.0032(a), (b), and (f), Government Code, are amended to read as follows:

(a) Except as provided by Subsection (b), a person is not eligible for appointment to the board if the person or the person's spouse:

- (1) is employed by or participates in the management of a business entity or other organization receiving funds from the retirement system; ~~or~~
- (2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the retirement system; ~~or~~
- (3) uses or receives a substantial amount of tangible goods, services, or funds from the retirement system, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

(b) Subsection (a) does not apply to employment by, participation in the management of, or ownership or control of an interest in a business

entity or other organization on behalf of the retirement system. Subsection (a)(3) does not apply to a person who is nominated for appointment under Section 825.002(c), (d), or (e).

(f) A person may not serve as a trustee or act as the general counsel to the board or the retirement system if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a business or an association related to the operation of the board.

SECTION 33. Subchapter A, Chapter 825, Government Code, is amended by adding Section 825.0041 to read as follows:

Sec. 825.0041. BOARD MEMBER TRAINING. (a) Before a member of the board may assume the member's duties and, if applicable, before the member may be confirmed by the senate the member must complete at least one course of the training program established under this section.

(b) A training program established under this section shall provide information to the member regarding:

(1) the enabling legislation that created the retirement system and its policy-making body to which the member is appointed to serve;

(2) the programs operated by the system;

(3) the role and functions of the system;

(4) the rules of the system with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the system;

(6) the results of the most recent formal audit of the system;

(7) the requirements of the:

(A) open meetings law, Chapter 551;

(B) open records law, Chapter 552; and

(C) administrative procedure law, Chapter 2001;

(8) the requirements of the conflict of interest laws and other laws relating to public officials; and

(9) any applicable ethics policies adopted by the system or the Texas Ethics Commission.

SECTION 34. Section 825.006, Government Code, is amended to read as follows:

Sec. 825.006. SUNSET PROVISION. The board of trustees of the Teacher Retirement System of Texas is subject to review under Chapter 325 (Texas Sunset Act), but is not abolished under that chapter. The board shall be reviewed during the period in which state agencies abolished in 2007 [~~1995~~] are reviewed or, if the retirement system's operating expenses are not subject to the appropriations process on September 1, 1995, the board shall be reviewed during the period in which state agencies abolished in 1997 are reviewed. This section expires September 1, 2007 [~~1995~~].

SECTION 35. Sections 825.010(a) and (c), Government Code, are amended to read as follows:

(a) It is a ground for removal from the board if a trustee:

(1) does not have at the time of appointment the qualifications required for the trustee's position;

(2) does not maintain during service on the board the qualifications required for the trustee's position;

(3) violates a prohibition established by Section 825.002(b) or 825.0032;

(4) ~~[(2)]~~ cannot because of illness or disability discharge the trustee's ~~[person's]~~ duties for a substantial part of the term for which the trustee ~~[person]~~ is appointed ~~[because of illness or disability]~~; or

(5) ~~[(3)]~~ is absent from more than ~~one-third~~ ~~[half]~~ of the regularly scheduled board meetings that the person is eligible to attend during a calendar year unless the absence is excused by majority vote of the board.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer ~~[chairman]~~ of the board of the ground. The presiding officer ~~[chairman]~~ shall then notify the appropriate appointing officer and the attorney general ~~[or body]~~ that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest officer of the board, who shall notify the appropriate appointing officer and the attorney general that a potential ground for removal exists.

SECTION 36. Section 825.108, Government Code, is amended by adding Subsections (e) and (f) to read as follows:

(e) The board shall prepare annually a complete and detailed written report accounting for all funds received and disbursed by the retirement system during the preceding fiscal year. The annual report must meet the reporting requirements applicable to financial reporting provided in the General Appropriations Act.

(f) The board shall prepare biennially a complete and detailed written report describing and explaining any use of appropriated amounts, retirement system assets, or other resources for governmental relations, member counseling, or official publications. The report must be filed with the committees of the senate and the house of representatives having jurisdiction over appropriations, with the committees of the senate and the house of representatives having principal jurisdiction over legislation governing the retirement system, and with the Legislative Budget Board at the time the retirement system submits its budget request for the next state fiscal biennium.

SECTION 37. Sections 825.113(a), (b), and (f), Government Code, are amended to read as follows:

(a) The executive director or the executive director's designee ~~[board]~~ shall provide to its trustees and employees, as often as necessary, information regarding their qualification for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(b) The board shall develop and implement policies that clearly separate the policy-making ~~[define the respective]~~ responsibilities of the board and the management responsibilities of the executive director and the staff of the retirement system.

(f) The retirement system shall comply with federal and state laws related to program and facility accessibility. The executive director ~~[board]~~ shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the board's programs. The board shall also comply with federal and state laws for program and facility accessibility.

SECTION 38. Subchapter B, Chapter 825, Government Code, is amended by adding Section 825.115 to read as follows:

Sec. 825.115. APPLICABILITY OF CERTAIN LAWS. The board is subject to the open meetings law, Chapter 551, and the administrative procedure law, Chapter 2001.

SECTION 39. Section 825.201, Government Code, is amended to read as follows:

Sec. 825.201. PRESIDING OFFICER [CHAIRMAN]. The governor shall designate a member of the board as the presiding officer of the board to serve in that capacity at the pleasure of the governor. ~~[The board of trustees shall elect a chairman. The chairman must be a member of the board.]~~

SECTION 40. Section 825.206, Government Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) Each actuarial experience study must include a review of all actuarial assumptions in light of relevant experience, important trends, and economic projections. Interrelated actuarial assumptions shall be reviewed carefully to ensure that adjustments in one assumption are reflected appropriately in related assumptions.

(e) Each actuarial valuation must include a detailed analysis comparing experience factors to their actuarial assumptions. The analysis shall be developed and reported to identify significant variations in actual experience from what was assumed. A material variation should be the focus of an actuarial experience study.

SECTION 41. Sections 825.213(a), (b), and (c), Government Code, are amended to read as follows:

(a) The executive director or the executive director's designee shall develop an intra-agency career ladder program that addresses opportunities for mobility and advancement for employees within the retirement system. The program shall require intra-agency posting of all ~~[nonentry-level]~~ positions concurrently with any public posting.

(b) The executive director or the executive director's designee shall develop a system of annual performance evaluations that are based on documented employee performance. All merit pay for system employees must be based on the system established under this subsection.

(c) The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel

that are in compliance with requirements of Chapter 21, Labor Code [~~the Commission on Human Rights Act (Article 5221k, Vernon's Texas Civil Statutes)~~];

(2) a comprehensive analysis of the retirement system's work force that meets federal and state guidelines;

(3) procedures by which a determination can be made about the extent of [~~significant~~] underuse in the retirement system's work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of [~~significant~~] underuse.

SECTION 42. Subchapter C, Chapter 825, Government Code, is amended by adding Section 825.215 to read as follows:

Sec. 825.215. ADVOCACY PROHIBITED. An employee of the retirement system may not advocate increased benefits or engage in activities to advocate or influence legislative action or inaction. Advocacy or activity of this nature is grounds for dismissal of an employee.

SECTION 43. Section 825.306, Government Code, is amended to read as follows:

Sec. 825.306. CREDITING SYSTEM ASSETS. The assets of the retirement system shall be credited, according to the purpose for which they are held, to one of the following accounts:

- (1) member savings account;
- (2) state contribution account;
- (3) retired reserve account;
- (4) [~~benefit increase reserve account;~~
- [(5)] interest account; or
- (5) [(6)] expense account.

SECTION 44. Section 825.309(b), Government Code, is amended to read as follows:

(b) The retirement system shall use money in the retired reserve account to pay all retirement annuities and all death or survivor benefits, including postretirement benefit increases and other adjustments to annuities [~~except those paid under Section 825.310(b)~~].

SECTION 45. Sections 825.312, 825.313, and 825.314, Government Code, are amended to read as follows:

Sec. 825.312. EXPENSE ACCOUNT. (a) The retirement system shall deposit in the expense account:

- (1) money transferred from the interest account under Section 825.313(c) [all membership fees required by this subtitle, including the fees under Section 823.3021(f)(2);
- [(2)] ~~money required to be deposited in the account by Section 825.313(b)(3) or 825.313(c)~~; and

(2) [(3)] money received from the Texas Public School [~~Retired~~] Employees Group Insurance Program for service performed for the program by the retirement system.

(b) The retirement system shall pay from the account all administrative expenses of [~~administration and maintenance of~~] the retirement system that

exceed the amounts appropriated under Section 825.404(d) and that are required to perform the fiduciary duties of the board.

Sec. 825.313. TRANSFERS FROM INTEREST OR STATE CONTRIBUTION ACCOUNT. (a) Annually, the retirement system shall transfer from the interest account to the state contribution account amounts accumulated under Section 825.311(2).

(b) On August 31 of each year, the retirement system shall make the following transfers from the interest account:

(1) to the member savings account, an amount computed using the rate prescribed by Section 825.307(b);

(2) to the retired reserve account, an amount equal to $4\frac{3}{4}$ percent of the average balance of the retired reserve account for that fiscal year or, if the transfer is authorized by resolution of the board, an amount computed at a greater rate if the actuary recommends the greater rate to adequately fund the retired reserve account;

~~[(3) to the expense account, an amount designated by the board of trustees in accordance with Subsection (c);~~

~~[(4) to the benefit increase reserve account, an amount representing interest on the average annual balance of the benefit increase reserve account at a rate set by the board of trustees in accordance with Section 825.106;] and~~

(3) ~~[(5)]~~ to the state contribution account, the amount remaining in the interest account after the other transfers required or authorized by this section are made.

(c) The board of trustees, by resolution recorded in its minutes, ~~may~~ ~~[shall]~~ transfer from the interest account to the expense account an amount necessary to cover the expenses of the retirement system for the fiscal year that exceed the amount of operating expenses appropriated under Section 825.404(d) and that are required to perform the fiduciary duties of the board, including the expense of servicing mortgages insured by the Federal Housing Administration under the National Housing Act (12 U.S.C. Section 1701 et seq.).

Sec. 825.314. USE AND REPORTING OF STATE CONTRIBUTIONS AND OTHER APPROPRIATIONS AND ASSETS. (a) The retirement system shall use all assets contributed by the state, other than operating expenses appropriated under Section 825.404(d), to pay benefits authorized by this subtitle.

(b) The staff of the retirement system shall report to the board at each board meeting the amounts and uses since the preceding board meeting of any money expended by the system from amounts transferred under Section 825.313(c) and include an explanation of why the amounts were needed to perform the fiduciary duties of the board. The retirement system annually shall prepare and issue to each contributing member and annuitant and to the governor, lieutenant governor, and speaker of the house of representatives a summary of the reports presented during the preceding year to the board.

SECTION 46. Subchapter D, Chapter 825, Government Code, is amended by adding Section 825.315 to read as follows:

Sec. 825.315. PROHIBITED USE OF ASSETS. Assets of the retirement system may not be used to advocate or influence the outcome of an election or the passage or defeat of any legislative measure. This prohibition may not be construed to prevent any trustee or employee from furnishing information in the hands of the trustee or employee that is not considered confidential under law to a member or committee of the legislature, to any other state officer or employee, or to any private citizen, at the request of the person or entity to whom the information is furnished. This prohibition does not apply to the incidental use of retirement system facilities by groups of members or retirees or by officers or employees of state agencies.

SECTION 47. Section 825.403, Government Code, is amended by amending Subsection (b) and adding Subsection (j) to read as follows:

(b) Each employer or the employer's designated disbursing officer, at a time and in a form prescribed by the retirement system, shall send to the executive director all deductions and a certification of earnings of each member employed by the employer. An employer shall use electronic fund transfer to send deductions required by this section or shall certify to the retirement system either that the employer is unable to establish a qualifying account at a financial institution or that payment by electronic fund transfer would be impractical or more costly than payment by paper check.

(j) If deductions were previously required of a member but not paid, proof of service must be made before service credit is granted or payment for the credit is required. Proof of service is sufficient if the member's employer documents that the employer has records made at or near the time of service that establish the amount of time worked and salary earned. A member may submit in lieu of employer documentation internal revenue, social security, bank, or other written records that were made at or near the time of service and that establish the amount of time worked and salary earned. An affidavit based on memory without written records made at or near the time of service is not sufficient documentation for the establishment of service credit. The retirement system may audit records used for documentation under this subsection.

SECTION 48. The heading of Section 825.404, Government Code, is amended to read as follows:

Sec. 825.404. COLLECTION OF STATE CONTRIBUTIONS AND APPROPRIATED OPERATING EXPENSES.

SECTION 49. Section 825.404, Government Code, is amended by redesignating and amending Subsection (d) as Subsection (e) and adding new Subsection (d) to read as follows:

(d) The legislature shall appropriate from the general revenue fund a specified amount of money to be used to pay operating expenses of the retirement system for each fiscal year.

(e) ~~(d)~~ All money appropriated by the state to the retirement system shall be paid to the state contribution account in equal monthly installments as provided by Section 403.093(c), Government Code, except money appropriated under Subsection (d), which remains in the general revenue fund until expenses are approved under Chapter 2103.

SECTION 50. Section 825.503, Government Code, is amended to read as follows:

Sec. 825.503. REPRODUCTION AND PRESERVATION OF RECORDS. (a) The retirement system may photograph, microphotograph, or film, or use electronic storage for, all records pertaining to a member's individual file, accounting records, district report records, and investment records. The retirement system may receive any record or report on paper or film or in an electronic storage format.

(b) If a record is reproduced under Subsection (a), the retirement system may destroy or dispose of the original record if the system first:

(1) places the reproduction or electronic record in a file conveniently accessible to retirement system personnel [~~in conveniently accessible files~~]; and

(2) provides for the preservation, examination, and use of the reproduction or stored electronic record.

(c) A photograph, microphotograph, [~~or~~] film, or electronic record of a record received or reproduced under Subsection (a) is equivalent to the original record for all purposes, including introduction as evidence in all courts and administrative agency proceedings. A duly certified or authenticated copy of such a photograph, microphotograph, [~~or~~] film, or electronic record is admissible as evidence equally with the original photograph, microphotograph, [~~or~~] film, or electronic record.

(d) The executive director or an authorized representative may certify the authenticity of a photograph, microphotograph, [~~or~~] film, or electronic record of a record reproduced under this section and shall charge a fee for the certified photograph, microphotograph, [~~or~~] film, or electronic record as provided by law.

(e) Certified records shall be furnished to any person who is authorized by law to receive them.

(f) In this section:

(1) "Electronic storage" means the maintenance of record data in the form of digital electronic signals on a computer hard disk, magnetic tape, optical disk, or similar medium readable by machine.

(2) "Electronic record" means any information that is recorded in a form for computer processing.

SECTION 51. Section 825.504, Government Code, is amended to read as follows:

Sec. 825.504. EMPLOYER CERTIFICATION TO BOARD. (a) An employer annually shall certify to the board of trustees the beginning date of the contract of each member whose contract year begins after June 30 and continues after August 31 of the same calendar year.

(b) For school years after the 1994-95 school year, an employer annually shall certify to the board of trustees the beginning date of an oral or written work agreement that begins after June 30 and continues after August 31 of the same calendar year.

(c) Each reporting district shall cooperate with the retirement system in ascertaining a member's annual earnings during any year. The board of trustees by rule may prescribe the form of and procedures for filing certifications required by this section.

SECTION 52. Section 825.506(a), Government Code, is amended to read as follows:

(a) It is intended that the provisions of this subtitle be construed and administered in a manner that the retirement system's benefit plan will be considered a qualified plan under Section 401(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401). Notwithstanding any other provision of this subtitle, benefits provided to a retiree, or based on the service of a member or retiree, may not exceed benefits permitted to be provided by a qualified plan by Section 415 of the Internal Revenue Code of 1986 (26 U.S.C. Section 415). The board of trustees may adopt rules that modify the plan to the extent necessary for the retirement system to be a qualified plan and shall adopt rules to ensure that benefits paid to a retiree, or to a beneficiary of a member or retiree, do not exceed the limits provided by Section 415 of the Internal Revenue Code of 1986 (26 U.S.C. Section 415). Rules adopted by the board of trustees are to be considered a part of the plan.

SECTION 53. Section 825.508(b), Government Code, is amended to read as follows:

(b) The system must honor a power of attorney executed in accordance with Chapter XII [†], Section 490 [36A], Texas Probate Code.

SECTION 54. Section 825.511, Government Code, is amended to read as follows:

Sec. 825.511. COMPLAINT FILES. (a) The retirement system shall keep an information file about each complaint filed with the system that the system has authority to resolve. The system shall provide to the person filing the complaint and the persons or entities complained about the system's policies and procedures pertaining to complaint investigation and resolution. The system, at least quarterly and until final disposition of the complaint, shall notify the person filing the complaint and the persons or entities complained about of the status of the complaint unless the notice would jeopardize an undercover investigation.

(b) The retirement system shall keep information about each complaint filed with the system. The information shall include:

- (1) the date the complaint is received;
- (2) the name of the complainant;
- (3) the subject matter of the complaint;
- (4) a record of all persons contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the

complaint; and

(6) for complaints for which the system took no action, an explanation of the reason the complaint was closed without action. [If a written complaint is filed with the retirement system that the system has authority to resolve, the system, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.]

SECTION 55. Subchapter F, Chapter 825, Government Code, is amended by adding Sections 825.512, 825.513, 825.514, and 825.515 to read as follows:

Sec. 825.512. INVESTMENT PERFORMANCE AUDIT. (a) The legislative audit committee biennially shall select an independent firm with substantial experience in evaluating institutional investment practices and performance to evaluate the retirement system's investment practices and performance.

(b) The legislative audit committee shall determine specific areas to be evaluated, but the first evaluation must be a comprehensive analysis of the retirement system's investment program.

(c) A report of an evaluation under this section shall be filed with the legislative audit committee not later than December 1 of each even-numbered year.

(d) The retirement system shall pay the costs of each evaluation under this section.

(e) The retirement system shall submit an annual investment performance report not later than the 25th day of the month following each fiscal year to the governor, the lieutenant governor, the speaker of the house of representatives, the executive director of the State Pension Review Board, the legislative audit committee, the committees of the senate and the house of representatives having jurisdiction over appropriations, the committees of the senate and the house of representatives having principal jurisdiction over legislation governing the retirement system, and the Legislative Budget Board. The report shall include a listing of all commissions and fees paid by the system during the reporting period for the sale, purchase, or management of system assets. The report shall be in a form recommended by the evaluating firm.

Sec. 825.513. INFORMATION FOR PUBLICATION. The retirement system shall verify with the State Pension Review Board the accuracy of information about the effects of proposed legislation on benefits and the trust fund before including the information in an official publication of the retirement system.

Sec. 825.514. HISTORICALLY UNDERUTILIZED BUSINESSES. The retirement system is subject to the provisions, including Sections 1.03 and 3.10, of the State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), that relate to historically underutilized businesses.

Sec. 825.515. INFORMATION ABOUT MEMBER POSITIONS. (a) The retirement system shall acquire and maintain records identifying members and the types of positions they have held as members, the length of service in each type of position, and whether service in each type of position is or was as a full-time employee. The retirement system shall cooperate with the commissioner of education in maintaining information about the employment status of members of the retirement system.

(b) Each school year, the retirement system shall provide to the commissioner of education information, of a type and in a form determined by the commissioner, that allows contributing members of the retirement system to be identified in information submitted to the commissioner by school districts under the Education Code.

(c) Information contained in records of the retirement system maintained under this section is confidential within the limits prescribed by Section 825.507.

SECTION 56. Section 1, Article 3.50-4, Insurance Code, is amended to read as follows:

Sec. 1. SHORT TITLE. This article may be cited as the Texas Public School ~~[Retired]~~ Employees Group Insurance Act.

SECTION 57. Sections 2(3) and (4), Article 3.50-4, Insurance Code, are amended to read as follows:

(3) "Dependent" means:

(A) a spouse of a retiree or active member;

(B) a retiree's, an active member's, or a deceased active member's unmarried child who is younger than 25 years of age including:

(i) an adopted child;

(ii) a foster child, a stepchild, or other child who is in a regular parent-child relationship; and

(iii) a recognized natural child; and

(C) a retiree's or active member's recognized natural child, adopted child, foster child, stepchild, or other child who is in a regular parent-child relationship and who lives with or whose care is provided by the retiree, active member, or surviving spouse on a regular basis, regardless of the child's age, if the child is mentally retarded or physically incapacitated to such an extent as to be dependent on the retiree, active member, or surviving spouse for care or support, as determined by the trustee, or in the case of a deceased active member, a recognized natural child, adopted child, foster child, stepchild, or other child who was in a regular parent-child relationship and who lived with or whose care was provided by the deceased active member on a regular basis, regardless of the child's age, if the child is mentally retarded or physically incapacitated to such an extent as to have been dependent on the deceased active member or surviving spouse for care or support, as determined by the trustee.

(4) "Fund" means the Texas public school ~~[retired]~~ employees group insurance fund.

SECTION 58. Section 3(a), Article 3.50-4, Insurance Code, is amended to read as follows:

(a) The Texas Public School ~~[Retired]~~ Employees Group Insurance Program is established to provide for an insurance plan or plans under this article.

SECTION 59. Section 5(a), Article 3.50-4, Insurance Code, is amended to read as follows:

(a) The trustee may adopt rules, plans, procedures, and orders reasonably necessary to implement this article, including:

(1) establishment of minimum benefit and financing standards for group insurance coverage to be provided to all retirees, active employees, dependents, surviving spouses, and surviving dependent children;

(2) establishment of basic and optional group coverage to be provided to retirees, active employees, dependents, surviving spouses, and surviving dependent children;

(3) establishment of the procedures for contributions and deductions;

(4) establishment of periods for enrollment and selection of optional coverage and procedures for enrolling and exercising options under the plan;

(5) determination of methods and procedures for claims administration;

(6) study of the operation of all insurance coverage provided under this article;

(7) administration of the fund;

(8) adoption of a timetable for the development of minimum benefit and financial standards for group insurance coverage, establishment of group insurance plans, and the taking of bids for and awarding of contracts for insurance plans; and

(9) contracting with an independent and experienced group insurance consultant or actuary, who does not receive insurance commissions from any insurance company, for advice and counsel in implementing and administering this program.

SECTION 60. Article 3.50-4, Insurance Code, is amended by adding Section 7A to read as follows:

Sec. 7A. PARTICIPATION BY ACTIVE EMPLOYEES. (a) A public school district may elect to participate in the program provided under this article. A district that elects to participate must accept the schedule of costs adopted by the trustee and may not offer an alternative health benefit plan to its active employees during the period of its participation in the program.

(b) The trustee by rule shall provide:

(1) eligibility requirements for participation by a school district, which may include criteria based on size;

(2) restrictions on the ability of a school district to begin or discontinue participation, which may include a minimum period of participation and limited periods for elections to begin or discontinue participation;

(3) administrative fees to be paid by participating school districts to cover the trustee's administrative costs in extending the program to active employees; and

(4) requirements to minimize the effects of adverse selection on the program.

(c) The trustee shall provide optional group coverages for active employees participating in the program. The coverages may be combined with or similar to, but separate from, coverages provided to retirees. The sum of premiums and administrative fees received from participating school districts and active employees must cover all expenses of school district employee participation in the program.

(d) Participation by an active employee of a participating school district is optional with the employee. A school district may not offer a financial incentive to an active employee for declining to participate in the program. An active employee is entitled to obtain coverage for dependents in the same manner as a participating retiree.

(e) Each participating school district shall contribute for each district employee covered by the program an amount equal to the cost for the employee only of the plans of group coverages authorized by the trustee for active employees, except that the school district's contribution may not exceed the amount contributed for each state employee by the state under the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code).

(f) Each employee covered by the program shall pay that portion of the cost of coverage selected by the employee that exceeds the amount of employer contributions.

(g) The trustee shall deposit in the fund all fees collected under Section 44(d), Chapter 812, Acts of the 73rd Legislature, 1993, except that portion used to conduct the survey required by Section 44. The trustee shall continue to collect the fee through the 1996-97 school year, after which time the fee expires.

(h) The state may make contributions to the fund in addition to those required by Section 16(b) of this article for the purpose of assisting in the expansion of the program to active employees.

(i) The trustee shall begin enrollment in the program for active employees to be effective beginning with the 1996-97 school year.

SECTION 61. Section 8(e), Article 3.50-4, Insurance Code, is amended to read as follows:

(e) The trustee may contract for and make available to all retirees, dependents, surviving spouses, and surviving dependent children optional group health insurance benefit plans in addition to the basic plans. The optional coverage may include a smaller deductible, lower coinsurance, or additional categories of benefits permitted under Subsection (b) of this section to provide additional levels of coverages and benefits. The trustee may utilize a portion of the funds received for the Texas Public School Employees Group Insurance Program to offset some portion of costs paid by the retiree for optional coverage if such utilization does not reduce the period the program is projected to remain financially solvent by more than one year in a biennium. Any additional contributions for these optional plans shall be paid for by the retiree, surviving spouse, or surviving dependent children.

SECTION 62. Section 9, Article 3.50-4, Insurance Code, is amended to read as follows:

Sec. 9. BENEFIT CERTIFICATES. At such times, or upon such events, as designated by the trustee, each insurance carrier shall issue to each retiree, active employee, surviving spouse, or surviving dependent child insured under this article a certificate of insurance that:

- (1) states the benefits to which the person [~~retiree, surviving spouse, or surviving dependent child~~] is entitled;
- (2) states to whom the benefits are payable;
- (3) states to whom the claims must be submitted; and
- (4) summarizes the provisions of the policy principally affecting the person [~~retiree, surviving spouse, or surviving dependent child~~].

SECTION 63. Section 10(a), Article 3.50-4, Insurance Code, is amended to read as follows:

(a) Not later than the 180th day after the end of each state fiscal year, the trustee shall make a written report to the State Board of Insurance concerning the insurance coverages provided and the benefits and services being received by persons [~~retirees, surviving spouses, dependents, and surviving dependent children~~] insured under this article.

SECTION 64. Sections 12 and 13, Article 3.50-4, Insurance Code, are amended to read as follows:

Sec. 12. DEATH CLAIMS: BENEFICIARIES. The amount of group life insurance and group accidental death and dismemberment insurance covering a retiree, active employee, surviving spouse, dependent, or surviving dependent child at the date of death shall be paid, on the establishment of a valid claim, only:

(1) to the beneficiary or beneficiaries designated by the person [~~retiree, surviving spouse, dependent, or surviving dependent child~~] in a signed and witnessed written document received before death in the trustee's office; or

(2) if no beneficiary is properly designated or in existence, to persons in accordance with the trustee's death benefit provisions in Subsection (b), Section 824.103, Government Code.

Sec. 13. AUTOMATIC COVERAGE. A retiree or active employee who applies during an enrollment period may not be denied any of the group insurance basic coverage provided under this article unless the person [~~retiree~~] has been found under Section 18A of this article to have defrauded or attempted to defraud the Texas Public School [~~Retired~~] Employees Group Insurance Program.

SECTION 65. The heading of Section 15, Article 3.50-4, Insurance Code, is amended to read as follows:

Sec. 15. [~~RETIRED~~] SCHOOL EMPLOYEES GROUP INSURANCE FUND.

SECTION 66. Section 15(a), Article 3.50-4, Insurance Code, is amended to read as follows:

(a) The [~~retired~~] school employees group insurance fund is created. The State Treasurer is the custodian of the fund, and the trustee shall administer the fund. All contributions from active employees, retirees, and the state, contributions for optional coverages, investment income, appropriations for implementation of this program, and other money required or authorized to be paid into the fund shall be paid into the fund. From the fund shall be paid, without state fiscal year limitation, the appropriate premiums to the carrier or carriers providing group coverage under the plan or plans under this article, claims for benefits under the group coverage, and the amounts expended by the trustee for administration of the program. The appropriate portion of the contributions to the fund to provide for incurred but unreported claim reserves and contingency reserves, as determined by the trustee, shall be retained in the fund.

SECTION 67. Article 3.50-4, Insurance Code, is amended by adding Section 15A to read as follows:

Sec. 15A. FUNDING STUDY. (a) The legislative audit committee shall select an independent firm with substantial experience in evaluating group insurance plans to conduct a study and make recommendations to the legislature and the trustee concerning the funding of the plan provided by this article for the benefit of and participation by active employees and retirees of public school districts. In its study of funding alternatives, the evaluating firm may consider and recommend procedures having an effect on funding, including procedures to control costs and minimize adverse selection.

(b) A report of the study under this section, including recommendations resulting from the study, shall be filed not later than December 1, 1996, with the legislative audit committee, the lieutenant governor, the speaker of the house of representatives, and the trustee.

(c) The trustee shall pay the costs of the study from the fund.

(d) This section expires January 1, 1997.

SECTION 68. Sections 18A(a), (b), (d), and (f), Article 3.50-4, Insurance Code, are amended to read as follows:

(a) After notice and hearing as provided by this section, the trustee may expel from participation in the Texas Public School [Retired] Employees Group Insurance Program any retiree, active employee, surviving spouse, dependent, or surviving dependent child who submits a fraudulent claim under, or has defrauded or attempted to defraud, any health benefits plan offered under the program.

(b) On its motion or on the receipt of a complaint, the trustee may call and hold a hearing to determine whether a person [~~retiree, surviving spouse, dependent, or surviving dependent child~~] has submitted a fraudulent claim under, or has defrauded or attempted to defraud, any health benefits plan offered under the Texas Public School [Retired] Employees Group Insurance Program.

(d) If the trustee, at the conclusion of the hearing, issues a decision that finds that the accused [~~retiree, surviving spouse, dependent, or surviving dependent child~~] submitted a fraudulent claim or has defrauded or attempted to defraud any health benefits plan offered under the Texas Public School [Retired] Employees Group Insurance Program, the trustee shall expel the person [~~retiree, surviving spouse, dependent, or surviving dependent child~~] from participation in the program.

(f) A person [~~retiree, surviving spouse, dependent, or surviving dependent child~~] expelled from the Texas Public School [Retired] Employees Group Insurance Program may not be insured by any health insurance plan offered by the program for a period, to be determined by the trustee, of up to five years from the date the expulsion takes effect.

SECTION 69. Section 18B(a), Article 3.50-4, Insurance Code, is amended to read as follows:

(a) Section 825.507, Government Code [~~35.507, Title 110B, Revised Statutes~~], concerning the confidentiality of information in records that are in the custody of the Teacher Retirement System of Texas, applies to

information in records that are in the custody of the retirement system regarding retirees, active employees, annuitants, or beneficiaries under the Texas Public School [Retired] Employees Group Insurance Program.

SECTION 70. Sections 18C(c), (d), and (i), Article 3.50-4, Insurance Code, are amended to read as follows:

(c) The trustee, the Texas public school [retired] employees group insurance program, the [retired] school employees group insurance fund, and the board of trustees, officers, advisory committee members, and employees of the trustee are not liable for damages arising from the acts or omissions of health care providers who are participating health care providers in the coordinated care network established by the trustee. Those health care providers are independent contractors and are responsible for their own acts and omissions.

(d) The trustee, the Texas public school [retired] employees group insurance program, the [retired] school employees group insurance fund, or a member of a credentialing committee, or the board of trustees, officers, advisory committee members, or employees of the trustee are not liable for damages arising from any act, statement, determination, recommendation made, or act reported, without malice, in the course of the evaluation of the qualifications of health care providers or of the patient care rendered by those providers.

(i) A credentialing committee, a person participating in a credentialing review, a health care provider, the trustee, the Texas public school [retired] employees group insurance program, or the board of trustees, officers, advisory committee members, or employees of the trustee that are named as defendants in any civil action filed as a result of participation in the credentialing process may use otherwise confidential information obtained for legitimate internal business and professional purposes, including use in their own defense. Use of information under this subsection does not constitute a waiver of the confidential and privileged nature of the information.

SECTION 71. (a) Monthly payments of a death or retirement benefit annuity by the Teacher Retirement System of Texas are increased beginning with the payment due at the end of September, 1995.

(b) Except as provided by Subsection (c) of this section, the amount of the monthly increase is computed by multiplying the previous monthly benefit by a percentage determined in accordance with the following table:

LATEST RETIREMENT DATE OR, IF APPLICABLE, DATE OF DEATH	INCREASE
Before September 1, 1972	14%
On or after September 1, 1972, but before September 1, 1973	15%
On or after September 1, 1973, but before September 1, 1974	17%
On or after September 1, 1974, but before September 1, 1975	14%
On or after September 1, 1975, but before September 1, 1976	13%
On or after September 1, 1976, but before September 1, 1977	16%
On or after September 1, 1977, but before September 1, 1978	14%
On or after September 1, 1978, but before September 1, 1979	13%
On or after September 1, 1979, but before September 1, 1980	12%

On or after September 1, 1980, but before September 1, 1981	9%
On or after September 1, 1981, but before September 1, 1982	8%
On or after September 1, 1982, but before September 1, 1983	7%
On or after September 1, 1983, but before September 1, 1985	8%
On or after September 1, 1985, but before September 1, 1986	7%
On or after September 1, 1986, but before September 1, 1987	8%
On or after September 1, 1987, but before September 1, 1989	7%
On or after September 1, 1989, but before September 1, 1990	5%
On or after September 1, 1990, but before September 1, 1992	3%
On or after September 1, 1992, but before September 1, 1993	2%

(c) An annuitant is entitled to the greater of:

(1) a monthly benefit annuity computed as if:

(A) Subtitle C, Title 8, Government Code, as it existed on January 1, 1995, had been in effect on the date of retirement or on the date of death, as applicable; and

(B) all benefits increases, including that provided by Subsection (b) of this section, were included that are applicable to the annuity and were provided after the date the annuity began; or

(2) if the annuity is based on a retirement or death that occurred before September 1, 1993, the monthly benefit annuity option selected at the time of retirement or death:

(A) recomputed on the basis of one-twelfth of the minimum annual salary provided by the Education Code for a classroom teacher or full-time librarian, multiplied by two percent for each year of service credit in the retirement system;

(B) actuarially reduced, if applicable, for early retirement; and

(C) excluding the increase provided by Subsection (b) of this section.

(d) For the purpose of computing the annuity increase provided by Subsection (c) of this section for a person whose annuity is not currently based on the highest three-year average compensation, the retirement system may use compensation amounts based on current actuarial assumptions. An annuitant who so requests in writing will receive the increase computed on the greater of compensation based on current actuarial assumptions or actual compensation computed under the law in effect on January 1, 1995.

SECTION 72. The following sections of the Government Code are repealed:

(1) Section 825.106;

(2) Section 825.310; and

(3) Section 825.401.

SECTION 73. (a) Section 824.304, Government Code, as amended by this Act, applies to payments of monthly annuities that are made to persons who retired for disability before the effective date of this section and that become due on or after that date, as well as to annuities that first become payable on or after that date.

(b) On September 1, 1995, the Teacher Retirement System of Texas shall transfer all amounts in the benefit increase reserve account to the retired reserve account.

SECTION 74. Notwithstanding Section 824.1011, Government Code, as added by this Act, a retiree of the Teacher Retirement System of Texas who is receiving a standard service retirement annuity and who married after retirement but before the effective date of that section is entitled to select an annuity and designate a beneficiary as provided by that section before September 1, 1996.

SECTION 75. The terms of members of the Board of Trustees of the Teacher Retirement System of Texas appointed under Section 825.003, Government Code, as it existed before the effective date of this section, expire on the effective date of this section. The changes in the qualifications and methods of appointment of other members of the board of trustees made by this Act apply only to members appointed for terms that begin on or after the effective date of this section. In implementing the changes, the governor shall appoint a member of the board of trustees from a list of nominees submitted by the State Board of Education to a term expiring August 31, 2001, another member of the board from a list of nominees submitted by the State Board of Education to a term expiring August 31, 1997, and another member of the board without the necessity of consultation with the State Board of Education to a term expiring August 31, 2001.

SECTION 76. The Teacher Retirement System of Texas shall develop an initial space allocation plan as defined in rules of the General Services Commission and submit the plan to the commission for approval not later than March 1, 1996. The retirement system shall implement an approved plan not later than September 1, 1996.

SECTION 77. This Act takes effect September 1, 1995, except Section 75 and this section, which take effect August 31, 1995.

SECTION 78. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was filed with the Secretary of the Senate.

SENATE POSTING RULE SUSPENDED

Senator Henderson moved to suspend the Posting Rule on **H.B. 3073** and **H.B. 3235** so that they may be heard by the Jurisprudence Committee at his desk upon adjournment.

There was no objection.

SENATE RULE 11.19 SUSPENDED
(Posting Rule)

On motion of Senator Moncrief and by unanimous consent, Senate Rule 11.19 was suspended in order that the Finance Subcommittee on Property Tax might consider **H.B. 2197** today.

SENATE RULE 11.19 SUSPENDED
(Posting Rule)

On motion of Senator Ellis and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Intergovernmental Relations might consider the following bills today:

H.B. 3143

H.B. 943

REPORT OF COMMITTEE ON NOMINATIONS

Senator Bivins submitted the following report from the Committee on Nominations:

We, your Committee on Nominations, to which were referred the following appointments, have had same under consideration and report them back to the Senate with a recommendation that they be confirmed.

To be Members of the SABINE RIVER AUTHORITY BOARD OF DIRECTORS: Walta Pippen Cooke, Panola County; Jerry Stallworth, Harrison County; Clarence Earl Williams, Jr., Orange County.

To be Members of the TEXAS COMMISSION FOR THE BLIND: Carolyn Marie Garrett, Harris County; Olivia Sandoval, Bexar County; Olivia Chavez Schonberger, El Paso County.

To be a Member of the COMMISSION ON JAIL STANDARDS: Patrick O. Keel, Travis County.

To be a Member of the TEXAS STATE BOARD OF PODIATRY EXAMINERS: Dr. Paul Schwarzentraub, Lubbock County.

To be a Member of the TEXAS BOARD OF CHIROPRACTIC EXAMINERS: Hubert Pickett, Jr., Taylor County.

To be a Member of the TEXAS LOTTERY COMMISSION: Anthony J. Sadberry, Harris County.

To be a Member of the BRAZOS RIVER AUTHORITY BOARD OF DIRECTORS: Karen C. Matkin, McLennan County.

To be Members of the INTERAGENCY COUNCIL ON EARLY CHILDHOOD INTERVENTION SERVICES: Claudette Wilkinson Bryant, Dallas County; Karen Douglas, Bexar County; Dr. Tammy Tiner, Brazos County.

To be a Member of the TEXAS STATE BOARD OF PLUMBING EXAMINERS: Joe W. Campbell, Harris County.

To be Members of the TEXAS STATE BOARD OF PODIATRY EXAMINERS: Dr. W. Preston Goforth, Bell County; Colonel Mervin E. Perry, Travis County.

To be a Member of the TEXAS WORKERS' COMPENSATION INSURANCE FACILITY GOVERNING COMMITTEE: J. Earl Beckman, Gregg County.

NOTICE OF CONSIDERATION OF NOMINATIONS

Senator Bivins gave notice that he would tomorrow at the conclusion of morning call submit to the Senate for consideration nominations to agencies, boards, and commissions of the state.

SENATE RULE 11.19 SUSPENDED

(Posting Rule)

On motion of Senator Sibley and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Economic Development might consider the following bills tomorrow:

H.B. 2550

H.B. 2936

SENATE RULE 11.19 SUSPENDED

(Posting Rule)

On motion of Senator Brown and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Natural Resources might consider the following bills and resolution today:

H.B. 1407	H.B. 2133	H.B. 2925
H.B. 1823	H.B. 2177	H.B. 2945
H.B. 1900	H.B. 2477	H.B. 3186
H.B. 1935	H.B. 2491	H.B. 3187
H.B. 2039	H.B. 2712	S.C.R. 161

MEMORIAL RESOLUTIONS

S.R. 1109 - By Zaffirini: In memory of Lucio Aleman.

S.R. 1110 - By Zaffirini: In memory of Nancy Lee Watts of Austin.

CONGRATULATORY RESOLUTIONS

S.C.R. 158 - By Barrientos: Designating the month of May as Texas Special Olympics Summer Games Month in Texas.

S.C.R. 159 - By Barrientos: Recognizing Brenda Shelton Olds of Austin on the occasion of her retirement after 27 years of service with the Texas Legislative Reference Library.

S.R. 1107 - By Brown: Recognizing the Reverend Paul Schairer of Bellaire for his 35 years of service as a minister in the Lutheran church.

S.R. 1108 - By Cain: Recognizing Gladys A. Johnson on the occasion of her retirement as principal of T. J. Austin Elementary School in Tyler.

H.C.R. 214 - (Henderson): Commending the students of Klein Forest High School and designating May 19, 1995, as a Day of Hope and Healing in Texas.

ADJOURNMENT

On motion of Senator Truan, the Senate at 12:17 p.m. adjourned until 10:00 a.m. tomorrow.

APPENDIX

REPORTS OF STANDING COMMITTEES

The following committee reports were received by the Secretary of the Senate:

May 18, 1995

FINANCE — **H.B. 2731**

ADMINISTRATION — **H.C.R. 4, C.S.H.C.R. 186**

ECONOMIC DEVELOPMENT — **H.B. 2553, H.B. 2501, H.B. 46, H.B. 2960, H.B. 1670, H.B. 457, C.S.H.B. 788, H.B. 1324, H.B. 1323, H.B. 1227, H.B. 1208, H.B. 1065 (Amended), C.S.H.B. 369**

JURISPRUDENCE — **H.B. 3073, C.S.H.B. 3203, C.S.H.B. 3235**

SIGNED BY GOVERNOR

(May 17, 1995)

S.B. 12 (Effective September 1, 1995, except Section 8 of the Act which takes effect immediately)
S.B. 297 (Effective September 1, 1995)
S.B. 360 (Effective September 1, 1995)
S.B. 365 (Effective August 30, 1995)
S.B. 368 (Effective September 1, 1995)
S.B. 410 (Effective immediately)
S.B. 424 (Effective immediately)
S.B. 529 (Effective September 1, 1995)
S.B. 548 (Effective September 1, 1995)
S.B. 688 (Effective immediately)
S.B. 694 (Effective immediately)
S.B. 731 (Effective August 28, 1995)
S.B. 875 (Effective immediately)
S.B. 934 (Effective August 28, 1995)
S.B. 1018 (Effective immediately)
S.B. 1032 (Effective upon adoption of **S.J.R. 46**)

S.B. 1060 (Effective September 1, 1995)
S.B. 1098 (Effective August 28, 1995)
S.B. 1229 (Effective September 1, 1995)
S.B. 1241 (Effective August 28, 1995)
S.B. 1281 (Effective August 28, 1995)
S.B. 1284 (Effective September 1, 1995)
S.B. 1299 (Effective September 1, 1995)
S.B. 1327 (Effective immediately)
S.B. 1328 (Effective immediately)
S.B. 1387 (Effective September 1, 1995)
S.B. 1627 (Effective August 28, 1995)
H.B. 85 (Effective August 28, 1995)
H.B. 1465 (Effective immediately)
H.B. 2355 (Effective August 28, 1995)

SENT TO GOVERNOR

(May 18, 1995)

S.C.R. 55	S.B. 223	S.B. 391	S.B. 916
S.C.R. 56	S.B. 237	S.B. 393	S.B. 938
S.C.R. 57	S.B. 248	S.B. 482	S.B. 980
S.C.R. 60	S.B. 251	S.B. 524	S.B. 988
S.C.R. 95	S.B. 258	S.B. 542	S.B. 1067
S.B. 21	S.B. 264	S.B. 686	S.B. 1146
S.B. 59	S.B. 271	S.B. 706	S.B. 1223
S.B. 60	S.B. 286	S.B. 768	S.B. 1282
S.B. 81	S.B. 361	S.B. 774	S.B. 1504
S.B. 146	S.B. 372	S.B. 831	S.B. 1530
S.B. 187	S.B. 375		

SENT TO SECRETARY OF STATE

(May 18, 1995)

H.J.R. 31**SEVENTY-FIFTH DAY**

(Friday, May 19, 1995)

The Senate met at 10:00 a.m. pursuant to adjournment and was called to order by President Pro Tempore Barrientos.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Ellis, Gallegos, Galloway, Harris, Haywood, Henderson, Leedom, Lucio, Luna, Madla, Moncrief,